



November 8, 1999

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR99-3144

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130635.

The Texas Department of Criminal Justice (the department) received a request for the "interview documentation" for job number 044171, Purchasing Clerk IV. The requestor seeks her own information as well as that of the person who was selected for the position. You argue that the requested information is excepted from required public disclosure by section 552.122 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122(b) includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122(b) exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122(b) where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

You indicate that the department will use the same questions and preferred answers to evaluate applicants in future interviews and state that the "oral examinations" are "devices by which the applicants' knowledge or ability in a particular area is evaluated," quoting Open Records Decision No. 626 at 6 (1994). After reviewing the submitted documents, we believe that three of the questions, question numbers 3, 4, and 8, their rating criteria (preferred answers), and candidate answers are protected "test items." They "measure the skill, knowledge, intelligence, capacities, or aptitudes of an individual" and are a "standard means by which an individual's or group's knowledge

or ability in a particular area is evaluated.” *Id.* The remaining questions are not “test items” as contemplated by section 552.122(b), and must be released; the material “does not involve an evaluation of an applicant’s knowledge in a particular area.” *Id.* at 8. Consequently, only questions 3, 4, and 8 and their related information may be withheld under section 552.122(b). *Id.* at 8 (when answers to test questions might reveal the questions themselves, the information may be withheld under section 552.122); *see* Attorney General Opinion JM-640 at 3 (1987).

You note that “interviewers’ notes are released to requestors.” We assume those notes include the page submitted to us which is signed by the interviewer and includes a ranking of the candidate. You must also release that page of the hired applicant’s evaluation, along with the hired applicant’s “Interview Documentation Form,” with questions 3, 4, and 8 and their related information withheld. However, section 552.117 of the Government Code excepts from required public disclosure the home address, home telephone number, social security number, or existence of family members of employees of the Texas Department of Criminal Justice. Therefore, the department must withhold this information of the hired applicant. *See* Open Records Decision Nos. 622 (1994), 455 (1987).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/ch

Ref: ID# 130635

Encl. Submitted documents

cc: Ms. Sellena Lawler
34 Big Lake Circle
Huntsville, Texas 77320
(w/o enclosures)